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January 14, 2015

VIA ECF

Honorable Judge Richard M. Berman  
United States District Judge  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, Courtroom 12D  
New York, NY 10007

Re: *Rio Tinto plc v. Vale S.A., et al.*, Civil Action No. 14-cv-3042 (RMB) (AJP) (S.D.N.Y.)

Dear Judge Berman:

Pursuant to Your Honor's January 9, 2015 Order, Defendants Vale S.A. ("Vale"), VBG-Vale BSGR Limited aka BSG Resources (Guinea) Ltd. aka BSG Resources Guinée Ltd, and BSG Resources Guinée SARL aka BSG Resources (Guinea) SARL aka VBG-Vale BSGR (together, "VBG Defendants"), Benjamin Steinmetz, BSG Resources Limited ("BSGR"), and Mahmoud Thiam, and Plaintiff Rio Tinto plc ("Plaintiff"), write jointly to update the Court on the status of discovery in advance of our January 20, 2015 conference.

The parties have reached agreement on a proposed discovery schedule for Your Honor's consideration, which was presented to Judge Peck at our conference yesterday. Pursuant to this schedule, the parties intend to complete fact discovery by the end of this year, and to complete expert discovery by the end of March 2016:

1. Jurisdictional Discovery Production Deadline for BSGR and Steinmetz: January 16, 2015
2. Defendant Thiam to produce privilege log: February 20, 2015
3. Pre-motion letter to the Court on Thiam government privilege document issue: February 23, 2015.
4. Status of Settlement Discussions: March 2, 2015

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5. Plaintiff's response to pre-motion letter by Thiam on government privilege issues: March 16, 2015
6. Defendant Thiam's reply in further support of his pre-motion letter: March 26, 2015
7. Rolling document productions must be substantially complete, subject to any pending personal jurisdiction or discovery motions: June 30, 2015
8. Depositions may begin: July 1, 2015
9. Affirmative Expert Witness Disclosures: August 14, 2015
10. Document production must be complete: August 28, 2015
11. Rebuttal Expert Witness Disclosures: September 11, 2015
12. All Fact Discovery Complete: December 31, 2015
13. Affirmative Expert Reports Due: January 15, 2016
14. Rebuttal Expert Reports Due: February 26, 2016
15. Expert Depositions Complete: March 31, 2016
16. Expert Discovery Complete (subject to further order by the Court): March 31, 2016
17. Motions for Summary Judgment Due: TBD
18. Trial: TBD

At the January 13 conference Judge Peck indicated he approved this schedule, subject to any further ruling by Your Honor. As per Judge Peck's request at yesterday's conference, Plaintiff today submitted a draft Proposed Scheduling Order to Judge Peck with the discovery schedule listed above.

The parties have continued to meet and confer regarding discovery on a regular basis, both by teleconference and through written correspondence, and have had several conferences before Judge Peck. This has led to progress in resolving various discovery disputes among most Defendants and Rio Tinto. However, there are some ongoing discovery disputes, the majority of which are between Defendant Vale and Plaintiff Rio Tinto, that are pending before Judge Peck. Yesterday, Judge Peck ordered Plaintiff Rio Tinto and Defendant Vale to return for a status conference on February 6 with representatives of their electronic discovery vendors, and either an agreed-upon predictive coding proposal or alternative proposals and recommendations for the appointment of a special master.

The parties have agreed and Judge Peck has approved a Protective Order (Dkt. 81) and an ESI Protocol (Dkt. 82).

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Production of documents by several of the parties has begun. Each of Rio Tinto, Vale, and Thiam has produced documents. The BSGR defendants are scheduled to make a jurisdictional discovery production at the end of this week. Both Rio Tinto and Vale have also served merits-based discovery requests on BSGR and Steinmetz. Judge Peck has limited discovery of BSGR and Mr. Steinmetz to personal jurisdiction, unless and until the Court has determined whether it has jurisdiction over them. Thiam has also served merits-based discovery requests on Rio Tinto. Judge Peck suggested to the parties at the January 13 conference that they consider seeking discovery from defendants BSGR and Steinmetz under the Hague Convention, in case they do not remain parties to this action, and the parties will meet and confer on that topic. Additionally, while preserving their jurisdictional objections, the VBG Defendants have provided objections and responses to Plaintiff's discovery requests. Rio Tinto is currently reviewing the sufficiency of those initial responses and objections.

As mentioned above, the parties' next conference before Judge Peck is scheduled for February 6, 2015.

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The parties will update the Court of their ongoing progress on discovery at the January 20, 2015 conference.

Respectfully submitted,

/s/ Lewis J. Liman  
Lewis J. Liman